

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: June 18, 2003

Division: Monroe County Housing Authority

Bulk Item: Yes ☐ No ☒

Department: Special Programs Office

(Staff will be present at BOCC meeting for any questions)

AGENDA ITEM WORDING: Adoption of the DCA executed Community Development Block Grant (\$750,000) Contract Agreement for the 2002 Cycle.

ITEM BACKGROUND: On March 19, 2003, the BOCC granted approval of accepting the 2002 CDBG grant agreement offered by DCA. DCA letter dated February 28, 2003 required the contract agreement to be executed and returned to DCA by March 28, 2003. This was accomplished and DCA executed the contract agreement. However, the CDBG grant agreement was not attached for review, and a contract summary sheet was unintentionally omitted, therefore legal sufficiency was not obtained. This action is to administratively correct the process.

PREVIOUS RELEVANT BOCC ACTION: March 19, 2003 approval to accept the 2002 cycle CDBG grant agreement and acceptance of other recommendations.

CONTRACT/AGREEMENT CHANGES: None.

STAFF RECOMMENDATION: Adoption of the executed CDBG Contract Agreement with DCA.

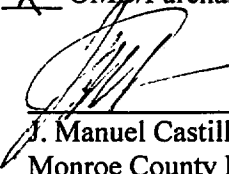
TOTALS COST: \$0.00 **BUDGETED:** Yes ☐ No ☒

COST TO COUNTY: \$0.00 **SOURCE OF FUNDS:** N/A

REVENUE PRODUCING: Yes ☐ No ☒ **AMOUNT PER:** Month ☐ Year ☐

APPROVED BY: County Attorney. ☒ OMB/Purchasing ☒ Risk Management BM

DEPARTMENT APPROVAL:


J. Manuel Castillo, Sr., Executive Director
Monroe County Housing Authority

DOCUMENTATION: Included ☒ To Follow ☐ Not Required ☐

DISPOSITION: _____

AGENDA ITEM # 1

CONTRACT SUMMARY

Contract with: Florida, Department of Community Affairs Contract # 03DB-1A-11-54-01-H32
 Effective Date: April 9, 2003
 Expiration Date: April 8, 2005

Contract Purpose/Description:
Small Cities Community Development Block Grant - Housing Category for the purposes of Housing Rehabilitation and sewer connections.

Contract Manager: Mark A. Bell 292-1221 Monroe County Housing Auth.
 (Name) (Ext.) (Department/Stop #)

for BOCC meeting on June 18, 2003 Agenda Deadline: June 3, 2003

CONTRACT COSTS

Total Dollar Value of Contract: \$ 750,000 Current Year Portion: \$
 Budgeted? Yes ☐ No ☒ Account Codes: -100-01004- -100,000.00
-100-01005- -100,000.00
 Grant: \$ 750,000
 County Match: \$ 935,843 200,000

ADDITIONAL COSTS

Estimated Ongoing Costs: \$ /yr For:
 (Not included in dollar value above) (eg. maintenance, utilities, janitorial, salaries, etc.)

CONTRACT REVIEW

	Date In	Changes Needed	Reviewer	Date Out
Division Director MCHA, Exec. Dir.	<u>6/2</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>J. Manuel Castillo, Sr.</u>	<u>6/2</u>
Risk Management	<u>6/3</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>Bill Zuhra</u>	<u>6/3/03</u>
O.M.B./Purchasing	<u>6-3-03</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>Shirley A. Barker</u>	<u>6/3/03</u>
County Attorney	<u>6-2-03</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>[Signature]</u>	<u>6-2-03</u>

Comments: _____

RESOLUTION NO. _____ - 2003

**A RESOLUTION OF THE BOARD OF COUNTY
COMMISSIONERS OF MONROE COUNTY, FLORIDA
ADOPTING THE DCA EXECUTED COMMUNITY
DEVELOPMENT BLOCK GRANT, CONTRACT
AGREEMENT FOR THE 2002 CYCLE**

WHEREAS, On March 19, 2003, the BOCC granted approval of accepting the 2002 CDBG grant agreement offered by DCA.

WHEREAS, A DCA contract award letter, dated February 28, 2003, required the contract agreement to be executed and returned to DCA by March 28, 2003.

WHEREAS, DCA executed the Contract Agreement for \$750,000 on April 9, 2003.

NOW, THEREFORE, BE IT RESOLVED, that the Board adopt the DCA executed Contract Agreement.

PASSED AND ADOPTED,

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

Mayor Spehar
Mayor Pro Tem Nelson
Commissioner McCoy
Commissioner Neugent
Commissioner Rice

By: _____
Mayor Dixie Spehar

SEAL

ATTEST:

Approved as to form and legal sufficiency:  Date: 6-2-03



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

JEB BUSH
Governor

COLLEEN CASTILLE
Secretary

February 28, 2003

The Honorable Charles McCoy
Mayor, Monroe County
1100 Simonton Street
Key West, Florida 33040

RE: Community Development Block Grant Award-Contract #03DB-1A-11-54-01-H32

Dear Mayor McCoy:

2002 Rick Stauts
As you are aware, your FFY ~~2003~~ Community Development Block Grant (CDBG) application is in the fundable range for an award of federal funds in the amount of \$750,000.00.

To facilitate further processing of your application, I will need your help in seeing that the enclosed Agreement and required forms are executed and returned to DCA by March 28, 2003. Directions for completion of the forms and obtaining signatures on the Agreement are enclosed. If it is necessary for your local government to approve this Agreement during a full commission meeting, please pursue getting this item on the next agenda now!

Please return three executed copies of the Agreement, signature authorization form, work plans and the documentation required in item #4 of the enclosed instruction sheet to:

Colleen Matthews
Bureau of Community Development
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

We look forward to working with you in the administration of your CDBG project. If you have any questions, please contact Rick Stauts, your area representative, at 850/922-1892.

Sincerely,

Libby Lane
Libby Lane
Program Administrator

LL/ph
Enclosures

cc: Monroe County Housing Authority
James Roberts

2555 SHUMARD OAK BOULEVARD • TALLAHASSEE, FLORIDA 32399-2100
Phone: 850.488.8466/Suncom 278.8466 FAX: 850.921.0781/Suncom 291.0781
Internet address: <http://www.dca.state.fl.us>

CRITICAL STATE CONCERN FIELD OFFICE
2796 Overseas Highway, Suite 212
Marathon, FL 33050-2227
(305) 289-2402

COMMUNITY PLANNING
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 483-2356

EMERGENCY MANAGEMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 413-9969

HOUSING & COMMUNITY DEVELOPMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 488-7956



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

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JEB BUSH
Governor

April 14, 2003

COLLEEN CASTILLE
Secretary

The Honorable Dixie M. Spehar
Mayor, Monroe County
530 Whitehead Street
Key West, Florida 33040

Re: Florida Small Cities Community Development Block Grant (CDBG)
Contract Number 03DB-1A-11-54-01-H32

Dear Mayor Spehar:

We are pleased to return your executed CDBG Award Agreement with the Department of Community Affairs (DCA). This agreement *must be retained in your official CDBG files and made available for public review upon request*. Please note the following instructions before beginning your project:

- ▶ Do not incur or obligate more than \$5,000 in expenses until you complete an environmental review of the project and receive a release of funds notice from the Department. You may incur up to \$5,000 in administrative costs to cover the environmental review and other start-up activities.
- ▶ Your contract contains performance-related special conditions (Attachment D) that must be met before funds for construction may be drawn. Review your contract immediately and begin the process of meeting any special conditions.
- ▶ Enclosed are copies of a Request for Funds Form, a Minority Business Enterprise Report and a Projection of Contract Payments and Report on Accomplishments to Date Form (applicable instructions for each form included). Use these forms to request payment on your contract, to project funding required per quarter and to report contractual activities. The Department cannot process a request for an amount less than \$5,000 (unless it is the final payment).

We look forward to working with you and will provide technical assistance upon request. If you have questions about your grant, please contact the DCA staff member responsible for monitoring your grant or Millie Schroeder, Planning Manager, at (850) 487-3644.

Sincerely,

Shirley W. Collins, Director
Division of Housing and Community Development

SWC/hc/rgs

Enclosures

cc: Mr. James Roberts, County Administrator
Mr. Manual Castillio, Monroe County Housing Authority
Mr. Rick Casey, Monroe County Housing Authority

2555 SHUMARD OAK BOULEVARD • TALLAHASSEE, FLORIDA 3399-2100
Phone: 850.488.8466/Suncom 278.8466 FAX: 850.921.0781/Suncom 291.0781
Internet address: <http://www.dca.state.fl.us>

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(850) 487-3644

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2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 412-0000

HOUSING & COMMUNITY DEVELOPMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 488-7000

Contract Number: 03DB-1A-11-54-01-H32
CFDA Number: 14.228

FEDERALLY FUNDED SUBGRANT AGREEMENT

THIS AGREEMENT is entered into by and between the State of Florida, Department of Community Affairs, with headquarters in Tallahassee, Florida (hereinafter referred to as the "Department"), and Monroe County (hereinafter referred to as the "Recipient").

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING FACTS:

A. WHEREAS, the Recipient represents that it is fully qualified and eligible to receive these grant funds to provide the services identified herein; and

B. WHEREAS, the Department has received these grant funds from the federal government, and has the authority to subgrant these funds to the Recipient upon the terms and conditions hereinafter set forth; and

C. WHEREAS, the Department has authority pursuant to Florida law to disburse the funds under this Agreement.

NOW, THEREFORE, the Department and the Recipient do mutually agree as follows:

(1) SCOPE OF WORK.

The Recipient shall fully perform the obligations in accordance with the Budget, Attachment A, and the Scope of Work, Attachment B, of this Agreement.

(2) INCORPORATION OF LAWS, RULES, REGULATIONS AND POLICIES.

Both the Recipient and the Department shall be governed by applicable State and Federal laws, rules and regulations, including but not limited to those identified in Attachments C and D.

(3) PERIOD OF AGREEMENT.

This Agreement shall begin upon the date last signed, and shall end twenty-four (24) months after the date last signed, unless terminated earlier in accordance with the provisions of paragraph (9) of this Agreement.

(4) MODIFICATION OF CONTRACT; REPAYMENTS

(a) Either party may request modification of the provisions of this Agreement.

Changes which are mutually agreed upon shall be valid only when reduced to writing, duly signed by each of the parties hereto, and attached to the original of this Agreement.

(b) Recipient requests for contract modification may be submitted at any time during the contract period. In order to avoid delays which may affect timely close-out of this contract, the Department recommends that modifications be sent at least 45 days prior to the contract end date in order to provide sufficient time for Department approval prior to that date.

(c) Pursuant to Florida Administrative Code, Rule 9B-43.03(25), the minimum score

within the fundable range for the application cycle and category in which this Agreement is funded shall be established by the publication and distribution of the Final Ranking after Appeals. Any modification which would reduce the score below the fundable range shall not be approved by the Department.

(d) All refunds or repayments to be made to the Department under this Agreement are to be made payable to the order of "Department of Community Affairs", and mailed directly to the Department at the following address:

Department of Community Affairs
Cashier
Finance and Accounting
2555 Shumard Oak Boulevard
Tallahassee FL 32399-2100

(e) Notification of the refund or repayment made by the Recipient to the Department should be sent to the CDBG Program Office at the following address:

Department of Community Affairs
CDBG Program Office
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

In accordance with § 215.34(2), Fla. Stat., if a check or other draft is returned to the Department for collection, the Department must add to the amount of the check or draft a service fee of Fifteen Dollars (\$15.00) or Five Percent (5%) of the face amount of the check or draft, whichever is greater.

(5) RECORDKEEPING

(a) As applicable, Recipient's performance under this Agreement shall be subject to the federal "Common Rule: Uniform Administrative Requirements for State and Local Governments" (53 Federal Register 8034) and OMB Circular No. A-87, "Cost Principles for State and Local Governments," OMB Circular No. A-21.

(b) All original records pertinent to this Agreement shall be retained by the Recipient for five years following the date of termination of this Agreement or of submission of the final close-out report, whichever is later, with the following exceptions:

1. If any litigation, claim or audit is started before the expiration of the five year period and extends beyond the five year period, the records will be maintained until all litigation, claims or audit findings involving the records have been resolved.
2. Records for the disposition of non-expendable personal property valued at \$10,000 or more at the time of acquisition shall be retained for three years after final disposition.
3. Records relating to real property acquisition shall be retained for five years after closing of title.
4. Records relating to displaced persons or businesses shall be retained for five years following final closeout or resolution of all claims and litigation, whichever comes last.

(c) All records, including supporting documentation of all program costs, shall be sufficient to determine compliance with the requirements and objectives of the Budget and Scope of Work - Attachments A and B - and all other applicable laws and regulations.

(d) The Recipient, its employees or agents, including all subcontractors or consultants to be paid from funds provided under this Agreement, shall allow access to its records at reasonable times to the Department, its employees, and agents. "Reasonable" shall be construed according to the circumstances but ordinarily shall mean during normal business hours of 8:00 a.m. to 5:00 p.m., local time, on Monday through Friday. "Agents" shall include, but not be limited to, auditors retained by the Department.

(6) REPORTS

(a) Once the Department has issued a monitoring report containing finding(s) and/or concern(s), the Recipient must issue a written response addressing the finding(s) and/or concern(s) and indicating corrective action that has been taken or provide information required by the Department necessary to resolve the issue(s) within the time frame specified by the Department in the monitoring report.

(b) At a minimum, the Recipient shall provide the Department with a Closeout Package due within forty-five (45) days of termination of this Agreement, and upon reasonable notice provide additional program updates

(c) If all required reports and copies, prescribed above, are not sent to the Department or are not completed in a manner acceptable to the Department, the Department may withhold further payment until they are completed or may take such action as set forth in paragraph (9). "Acceptable to the Department" means that the work product was completed in accordance with generally accepted principles and is consistent with the Budget and Scope of Work (Activity Work Plans) in Attachments A and B.

(d) Additional reporting requirements are addressed in Attachment D Special Conditions.

(7) MONITORING; TRAINING; TECHNICAL ASSISTANCE

(a) The Recipient shall constantly monitor its performance under this Agreement to ensure that time schedules are being met, the Budget and Scope of Work is being accomplished within specified time periods, and other performance goals are being achieved. Such review shall be made for each function or activity set forth in Attachment A of this Agreement.

(b) The Department shall review the Recipient's performance periodically to determine whether the Recipient has substantially completed its program as described in the approved application and this Agreement in accordance with the requirements of Sections 290.041 - 290.049, Fla. Stat., as amended, Florida Administrative Code, Rule Chapter 9B-43, as amended, and other applicable state and federal laws and regulations.

(c) Training and technical assistance shall be provided by the Department, within limits of staff time and budget, upon written request by the Recipient and/or upon a determination by the Department of Recipient need.

(d) The Recipient shall allow the Department to carry out monitoring, evaluation and technical assistance and shall assure the cooperation of its employees, subrecipients and subcontractors during such activities.

(8) LIABILITY.

(a) Unless Recipient is a State agency or subdivision, the Recipient shall be solely responsible to parties with whom it shall deal in carrying out the terms of this agreement, and shall save the Department harmless against all claims of whatever nature by third parties arising out of the performance of work under this agreement. For purposes of this agreement, Recipient agrees that it is not an employee or agent of the Department, but is an independent contractor.

(b) Any Recipient who is a state agency or subdivision, as defined in Section 768.28, Fla. Stat., agrees to be fully responsible to the extent provided by Section 768.28 Fla. Stat. for its negligent acts or omissions or tortious acts which result in claims or suits against the Department, and agrees to be liable for any damages proximately caused by said acts or omissions. Nothing herein is intended to serve as a waiver of sovereign immunity by any Recipient to which sovereign immunity applies. Nothing herein shall be construed as consent by a state agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

(9) DEFAULT; REMEDIES; TERMINATION.

(a) If the necessary funds are not available to fund this Agreement as a result of action by Congress, the state Legislature, the Office of the Comptroller or the Office of Management and Budgeting, or if any of the following events occur ("Events of Default"), all obligations on the part of the Department to make any further payment of funds hereunder shall, if the Department so elects, terminate and the Department may, at its option, exercise any of its remedies set forth herein, but the Department may make any payments or parts of payments after the happening of any Events of Default without thereby waiving the right to exercise such remedies, and without becoming liable to make any further payment:

1. If any warranty or representation made by the Recipient in this Agreement or any previous Agreement with the Department shall at any time be false or misleading in any respect, or if the Recipient shall fail to keep, observe or perform any of the terms or covenants contained in this Agreement or any previous agreement with the Department and has not cured such in timely fashion, or is unable or unwilling to meet its obligations thereunder;

2. If any material adverse change shall occur in the financial condition of the Recipient at any time during the term of this Agreement from the financial condition revealed in any reports filed or to be filed with the Department, and the Recipient fails to cure said material adverse change within thirty (30) days from the time the date written notice is sent by the Department.

3. If any reports required by this Agreement have not been submitted to the Department or have been submitted with incorrect, incomplete or insufficient information;

4. If the Recipient has failed to perform and complete in timely fashion any of the services required under the Budget and Scope of Work attached hereto as Attachment A and Attachment B.

(b) Upon the happening of an Event of Default, then the Department may, at its option, upon thirty (30) calendar days prior written notice to the Recipient and upon the Recipient's failure to timely cure, exercise any one or more of the following remedies, either concurrently or consecutively, and the pursuit of any one of the following remedies shall not preclude the Department from pursuing any other remedies contained herein or otherwise provided at law or in equity:

1. Terminate this Agreement, provided that the Recipient is given at least thirty (30) days prior written notice of such termination. The notice shall be effective when placed in the United States mail, first class mail, postage prepaid, by registered or certified mail-return receipt requested, to the address set forth in paragraph (10) herein;

2. Commence an appropriate legal or equitable action to enforce performance of this Agreement;

3. Withhold or suspend payment of all or any part of a request for payment;

4. Exercise any corrective or remedial actions, to include but not be limited to, requesting additional information from the Recipient to determine the reasons for or the extent of non-compliance or lack of performance, issuing a written warning to advise that more serious measures may be taken if the situation is not corrected, advising the Recipient to suspend, discontinue or refrain from incurring costs for any activities in question or requiring the Recipient to reimburse the Department for the amount of costs incurred for any items determined to be ineligible;

5. Exercise any other rights or remedies which may be otherwise available under law;

(c) The Department may terminate this Agreement for cause upon such written notice as is reasonable under the circumstances. Cause shall include, but not be limited to, misuse of funds; fraud; lack of compliance with applicable rules, laws and regulations; failure to perform in a timely manner; and refusal by the Recipient to permit public access to any document, paper, letter, or other material subject to disclosure under Chapter 119, Fla. Stat., as amended.

(d) Suspension or termination constitutes final agency action under Chapter 120, Fla. Stat., as amended. Notification of suspension or termination shall include notice of administrative hearing rights and time frames.

(e) In addition to any other remedies, the Recipient shall return to the Department any funds which were used for ineligible purposes under the program laws, rules, and regulations governing the use of the funds under the program.

(f) This Agreement may be terminated by the written mutual consent of the parties.

(g) Notwithstanding the above, the Recipient shall not be relieved of liability to the Department by virtue of any breach of Agreement by the Recipient. The Department may, to the extent authorized by law, withhold any payments to the Recipient for purpose of set-off until such time as the exact amount of damages due the Department from the Recipient is determined.

(10) NOTICE AND CONTACT.

(a) All notices provided under or pursuant to this Agreement shall be in writing, either by hand delivery, or first class, certified mail, return receipt requested, to the representative identified below at the address set forth below and said notification attached to the original of this Agreement.

(b) The name and address of the Department contract manager for this Agreement is:

Rick Stauts
Small Cities CDBG Program
Department of Community Affairs
Telephone: 850/922-1892
Fax: 850/922-5609
Email: rick.stauts@dca.state.fl.us

(c) The name and address of the Representative of the Recipient responsible for the administration of this Agreement is:

Mark A. Bell
Special Programs Office
Monroe County Housing Authority
1403 12th Street, Key West, FL 33040

Telephone: (305) 292-1221
Fax: (305) 292-1162
Email: bellm@kwaha.org

(d) In the event that different representatives or addresses are designated by either party after execution of this Agreement, notice of the name, title and address of the new representative will be rendered as provided in (10)(a) above.

(11) OTHER PROVISIONS.

(a) The validity of this Agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the Recipient in this Agreement, in any subsequent submission or response to Department request, or in any submission or response to fulfill the requirements of this Agreement, and such information, representations, and materials are incorporated by reference. The lack of accuracy thereof or any material changes shall, at the option of the Department and with thirty (30) days written notice to the Recipient, cause the termination of this Agreement and the release of the Department from all its obligations to the Recipient.

(b) This Agreement shall be construed under the laws of the State of Florida, and venue for any actions arising out of this Agreement shall lie in Leon County. If any provision hereof is in conflict with any applicable statute or rule, or is otherwise unenforceable, then such provision shall be deemed null and void to the extent of such conflict, and shall be deemed severable, but shall not invalidate any other provision of this Agreement.

(c) No waiver by the Department of any right or remedy granted hereunder or failure to insist on strict performance by the Recipient shall affect or extend or act as a waiver of any other right or remedy of the Department hereunder, or affect the subsequent exercise of the same right or remedy by the Department for any further or subsequent default by the Recipient. Any power of approval or disapproval granted to the Department under the terms of this Agreement shall survive the terms and life of this Agreement as a whole.

(d) The Agreement may be executed in any number of counterparts, any one of which may be taken as an original.

(e) The Recipient agrees to comply with the Americans With Disabilities Act (Public Law 101-336, 42 U.S.C. Section 12101 et seq.), if applicable, which prohibits discrimination by public and private entities on the basis of disability in the areas of employment, public accommodations, transportation, State and local government services, and in telecommunications.

(f) A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime or on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of Category Two for a period of 36 months from the date of being placed on the convicted vendor or discriminatory vendor list.

(g) With respect to any Recipient which is not a local government or state agency, and which receives funds under this Agreement from the federal government, by signing this Agreement, the Recipient certifies, to the best of its knowledge and belief, that it and its principals:

1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency;

2. have not, within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3. are not presently indicted or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any offenses enumerated in paragraph 11(g)2. of this certification; and

4. have not within a three-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.

Where the Recipient is unable to certify to any of the statements in this certification, such Recipient shall attach an explanation to this Agreement.

(h) Should the Recipient fail to enforce the provisions of any promissory note, mortgage, security agreement, or other obligation in any written contract with a beneficiary, contractor, agent, or subrecipient who received payment or benefit from funds disbursed under this Agreement, the Department may, with thirty (30) days written notice to the Recipient, automatically substitute itself for the Recipient in said written contract for the purpose of enforcing said written contract and may, at its discretion, continue to administer said Participating Party Agreement or written consent.

(i) The Recipient agrees that future changes in applicable laws, rules and regulations governing the Federal and local CDBG Program are applicable to this Agreement on their effective dates, or in the case of Florida Administrative Code, Rule Chapter 9B-43, upon dissemination by the Department of a Technical Memorandum so advising Recipients. Failure of the Recipient to acknowledge receipt shall not invalidate this provision.

(j) The Recipient agrees that no member of or delegate to the Congress of the United States, and no resident commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from the same. No member, officer, or employee of the Recipient, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any interest direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this agreement. The Recipient shall incorporate or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes stated above.

(k) The Recipient will ensure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the program are not listed on the Environmental Protection Agency's (EPA) list of Violation Facilities and that it will notify the Department of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

(12) AUDIT REQUIREMENTS.

(a) The Recipient agrees to maintain financial procedures and support documents, in accordance with generally accepted accounting principles, to account for the receipt and expenditure of funds under this Agreement.

(b) These records shall be available at all reasonable times for inspection, review, or audit by state personnel and other personnel duly authorized by the Department. "Reasonable" shall be construed according to circumstances, but ordinarily shall mean normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

(c) The Recipient shall also provide the Department with the records, reports or financial statements upon request for the purposes of auditing and monitoring the funds awarded under this Agreement.

(d) In the event that the Recipient expends \$300,000 or more in Federal awards in its fiscal year, the Recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. In determining the Federal awards expended in its fiscal year, the Recipient shall consider all sources of Federal awards, including Federal funds received from the Department. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the Recipient conducted by the Auditor General in accordance with the provisions OMB Circular A-133, as revised, will meet the requirements of this part. In connection with the above audit requirements, the Recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised, including:

1. The annual financial audit report shall include all management letters and the Recipient's response to all findings, including corrective actions to be taken.

2. The annual financial audit report shall include a schedule of financial assistance specifically identifying all Agreement and other revenue by sponsoring agency and Agreement number.

3. Copies of audit reports for audits conducted in accordance with OMB Circular A-133, as revised, and required by subparagraph (d) above shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the Recipient directly to each of the following:

a. The State of Florida at each of the following addresses:

Department of Community Affairs
CDBG Program Office
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

and

State of Florida Auditor General
Room 574, Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32302-1450

b. The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320(d)(1) and (2), OMB Circular A-133, as revised, should be submitted to the Federal Audit Clearinghouse), at the following address:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

c. Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.

(e) If the Recipient expends less than \$300,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required.

In the event that the Recipient expends less than \$300,000 in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal funds (i.e., the cost of such an audit must be paid from Recipient funds obtained from other than Federal entities).

In the event that a copy of the audit report for an audit required by subparagraph (d) above and conducted in accordance with OMB Circular A-133, as revised, is not required to be submitted to the Department for the reasons pursuant to Section .320(e)(2), OMB Circular A-133, as revised, the Recipient shall submit the required written notification pursuant to Section .320(e)(2), including a copy of the Recipient's audited schedule of expenditures of Federal awards, directly to the Department at the following address:

Department of Community Affairs
Office of the Inspector General
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

(f) In the event the audit shows that the entire funds disbursed hereunder, or any portion thereof, were not spent in accordance with the conditions of this Agreement, the Recipient shall be held liable for reimbursement to the Department of all funds not spent in accordance with these applicable regulations and Agreement provisions within thirty (30) days after the Department has notified the Recipient of such non-compliance.

(g) The Recipient shall have all audits completed by an independent certified public accountant (IPA) who shall either be a certified public accountant or a public accountant licensed under Chapter 473, Fla. Stat. The IPA shall state that the audit complied with the applicable provisions noted above.

(h) The audit is due seven (7) months after the end of the fiscal year of Recipient or by the date the audit report is issued by the state Auditor General, whichever is later.

(i) An audit performed by the State Auditor General shall be deemed to satisfy the above audit requirements.

(13) PROPERTY MANAGEMENT AND PROCUREMENT

(a) The Recipient shall comply with procurement standards prescribed in 24 C.F.R. Section 85.36; Rule 9B-43.014(1), Florida Administrative Code, as amended from time-to-time; and relevant state and local laws applicable to procurement of supplies, equipment, construction and services.

(b) The Recipient shall comply with uniform standards governing the utilization of property prescribed in 24 C.F.R. Part 85 and in C.F.R. Part 570.

(14) SUBCONTRACTS

(a) If the Recipient subcontracts any or all of the work required under this Agreement, a copy of the executed subcontract must be forwarded to the Department within thirty (30) days after execution of the subcontract. The Recipient agrees to include in the subcontract that (i) the subcontractor is bound by all applicable state and federal laws and regulations, and (ii) the subcontractor shall hold the Department and Recipient harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law.

(b) The Recipient will monitor the activities of any subrecipient pursuant to the requirements in 24 C.F.R. Part 570 and HUD Handbook "Managing CDBG, A Guidebook for Subrecipients Oversight" dated August 1993.

(c) All Recipients or Subrecipient contracts for which CDBG is in any part a funding source, shall contain language to provide for termination with reasonable costs to be paid by the Recipient for eligible contract work completed prior to the date the notice of suspension of funding was received by the Recipient. Any costs incurred after a notice of suspension or termination is received by the Recipient may not be funded with CDBG funds unless previously approved in writing by the Department consistent with 24 C.F.R. Part 85. All subrecipient contracts shall contain provisions for termination for cause or convenience and shall provide for the method of payment in such event.

(15) TERMS AND CONDITIONS.

The Agreement contains all the terms and conditions agreed upon by the parties.

(16) ATTACHMENTS.

(a) All attachments to this Agreement are incorporated as if set out fully herein.

(b) In the event of any inconsistencies or conflict between the language of this Agreement and the attachments hereto, the language of such attachments shall be controlling, but only to the extent of such conflict or inconsistency.

(c) This Agreement has the following attachments:

Attachment A - Budget;

Attachment B - Scope of Work (Work Plans);

Attachment C - State and Federal Program Statutes and Regulations;

Attachment D - Special Conditions; and

Exhibit 1 - Federal Resources.

(17) FUNDING/CONSIDERATION

(a) The funding for this Agreement shall not exceed \$750,000.00 subject to the availability of funds.

(b) Any advanced payment under this Agreement is subject to s.216.181(16), Florida Statutes. The amount which may be advanced is subject to Rule Chapter 9B-43, Florida Administrative Code, 24